

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

LG.PHILIPS LCD CO., LTD.,

Plaintiff,

v.

CHI MEI OPTOELECTRONICS CORPORATION, *et al.*,

Defendants.

Civil Action No. 06-726 (GMS)

AU OPTRONICS CORPORATION,

Plaintiff,

v.

LG.PHILIPS LCD CO., LTD and
LG.PHILIPS LCD AMERICA, INC.,

Defendants.

Civil Action No. 07-357 (GMS)

CONSOLIDATED CASES

LG.PHILIPS LCD CO., LTD. and LG.PHILIPS LCD
AMERICA, INC.,

Counterclaim-Plaintiffs,

v.

AU OPTRONICS CORPORATION, *et al.*,

Counterclaim-Defendants.

**CHI MEI OPTOELECTRONICS CORPORATION'S
MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION
AND INSUFFICIENCY OF SERVICE OF PROCESS**

Counterclaim-Defendant Chi Mei Optoelectronics Corporation ("CMO") moves this Court, in accordance with Fed. R. Civ. P. 12(b)(2) and 12(b)(5), to dismiss Counterclaim-Plaintiff's Additional Counterclaims for Patent Infringement for the same reasons set forth in CMO's Motion to Dismiss (D.I. 19, Civil Action No. 06-726), Opening Brief in Support of Chi

Mei Optoelectronics' Motion to Dismiss for Lack of Personal Jurisdiction and Insufficiency of Service of Process (D.I. 20, Civil Action No. 06-726), the Declaration of Li-Yi Chen (D.I. 21, Civil Action No. 06-726) and the Declaration of Arthur P. Licygiewicz (D.I. 22, Civil Action No. 06-726), all of which are incorporated herein by reference as if fully rewritten herein, submitted in Civil Action No. 06-726.

After Civil Action No. 07-735 was transferred from the United States District Court for the Western District of Wisconsin, LPL answered the complaint of AU Optronics Corporation and raised counterclaims against CMO and others. (D.I. 73, Civil Action No. 07-735). On June 13, 2007, a summons was issued to CMO. LPL attempted to effect service upon CMO by serving the Delaware Secretary of State and then sending a copy of the Summons and Counterclaim to CMO in Taiwan in the same way that it attempted to effect service on CMO in Civil Action No. 06-726. (D.I. 76, Civil Action No. 07-735) (*See* Ex. 1 to D.I. 22, Civil Action No. 06-726). As CMO first noted in its Motion to Dismiss in Civil Action No. 06-726, such service by counsel is insufficient and fails to comply with the requirements of Fed. R. Civ. P. 4(f)(2)(C)(ii).

On June 26, 2007, AU Optronics Corporation, AU Optronics Corporation of America, LG.Philips LCD Co., Ltd. and LG.Philips LCD America, Inc. jointly moved the court in Civil Action No. 06-726 to consolidate this action with it. (D.I. 92, Civil Action No. 06-726). CMO and Chi Mei Optoelectronics USA, Inc. did not oppose this motion.

On July 5, 2007, Counterclaim-Defendant CMO moved to dismiss the patent infringement counterclaims filed against it in Civil Action No. 07-735 by LPL. (D.I. 90, Civil Action No. 07-735). On August 8, 2007, without leave of this Court, LPL filed "Additional Counterclaims" against CMO. (D.I. 124, Civil Action No. 06-726).

LPL's "Additional Counterclaims" against CMO should be dismissed for the identical reasons that LPL's complaint should be dismissed against CMO in Civil Action No. 06-726: this Court lacks personal jurisdiction over CMO and service of process upon CMO was insufficient.¹

Accordingly, for the same reasons set forth in the Opening Brief in Support of Chi Mei Optoelectronics' Motion to Dismiss for Lack of Personal Jurisdiction and Insufficiency of Service of Process (D.I. 20, Civil Action No. 06-726), the Declaration of Li-Yi Chen (D.I. 21, Civil Action No. 06-726) and the Declaration of Arthur P. Licygiewicz (D.I. 22, Civil Action No. 06-726), all of which are incorporated herein by reference as if fully rewritten herein, CMO respectfully requests that this Court grant its Motion to Dismiss for Lack of Personal Jurisdiction and Insufficiency of Service of Process.

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¹ CMO confines its present Motion to one for dismissal for lack of personal jurisdiction and insufficiency of service of process. However, without formally joining in the Motion to Dismiss and/or Strike the "Additional Counterclaims," filed today by Chi Mei Optoelectronics USA, Inc. ("CMO USA"), CMO states that were LPL's "Additional Counterclaims" against CMO not already subject to dismissal by this Court for lack of jurisdiction and insufficiency of service of process, the "Additional Counterclaims" should be dismissed for the same reasons as set forth by CMO USA.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CERTIFICATE OF SERVICE

I, Philip A. Rovner, hereby certify that on August 22, 2007, the within document was filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following; that the document was served on the following counsel as indicated; and that the document is available for viewing and downloading from CM/ECF.

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